

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ORIGINAL
DFF
C/m

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Trustees of the LOCAL 7 TILE INDUSTRY
WELFARE FUND, Trustees of the LOCAL 7
TILE INDUSTRY ANNUITY FUND, Trustees of
the TILE LAYERS LOCAL UNION 52 PENSION
FUND, Trustees of the BRICKLAYERS &
TROWEL TRADES INTERNATIONAL
PENSION FUND, and Trustees of the
INTERNATIONAL MASONRY INSTITUTE,

MEMORANDUM AND ORDER
Case No. 10-CV-00284 (FB) (RER)

Plaintiffs,

-against-

STEP ON IT FLOOR COVERING INC.,

Defendant.
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Appearances:

For the Plaintiff:

CHARLES R. VIRGINIA, ESQ.

JUDY WONG, ESQ.

Virginia & Ambinder, LLP

111 Broadway, 24th Floor - Suite 1403

New York, New York 10006

BLOCK, Senior District Judge:

On June 6, 2011, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendant in the total amount of \$55,254.27, consisting of \$32,140.67 in delinquent contributions, \$8,739.52 in accrued interest, \$9,199.08 in liquidated damages, \$3,360 in auditing costs, and \$1,815 in attorneys' fees and costs. *See* R&R at 10. The R&R also stated that defendants' failure to object within fourteen days of receiving the R&R would preclude appellate review. *See id.* Plaintiff's attorney mailed a copy of the R&R to

defendant on June 6, 2011; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. See *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

s/ Judge Frederic Block


FREDERIC BLOCK

Senior United States District Judge

Brooklyn, NY
August 30, 2011